IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

First Appeal No.779 of 2004

Jaguradevi Shatrughna Rajbhar & ors..Appellants
vs
M B Edujlee Cassinath and anr ...Respondents
Mr M.B.Kotak for appellants
Mr S.M Vidyarthia for respondent no.2

CORAM: Anoop.V.MOHTA J.

Dated l9.ll.2005

P.C:

l. Heard finally the learned counsel for the parties.

2. The only controversy in this case is of non grant of interest as referred to in paragraph 5 of the impugned judgment. The undisputed position on record is basically of provisions of section 4-A(3) of The Workmen's Compensation Act, l923 which provides that where any employer defaults in paying the compensation due under the Act within one month from the date it fell due, the Commissioner shall direct that the employer shall in addition to the amount of arrears pay a simple interest thereon at the rate of l2% per annum or at a higher rate not exceeding the maximum of the landing rates in a Scheduled Bank as may be specified by the Central

Act. After considering the rival contentions it is clear that the claimants are entitled to the statutory interest as provided under the Act as of right. Therefore there is no question of non granting of such interest. There is no reason made out much less discussed by the trial court as to why such interest should not be awarded to the claimants. Taking into consideration the facts and circumstances of the case based on the provisions of the said Act as referred to above, I am of the view that the claimants are entitled to simple interest at l2% p.a. from l8.l2.l998 till the date of deposit of the arrears of compensation.

3. The learned counsel for the appellants waive claim so far as the penalty is concerned. In view of this position first appeal is disposed of. The impugned judgment and order is modified accordingly. No order as to costs.